
From: Kutscher Clark, Martie <MKutscherClark@gibsondunn.com>
Sent: Tuesday, June 8, 2021 4:53 PM
To: Lesley Weaver; Matt Melamed; Matthew Montgomery; Anne Davis; Derek Loeser; David Ko; Cari Laufenberg
Cc: Gail Andler; Daniel B. Garrie; Snyder, Orin; Stein, Deborah L.; Falconer, Russ; Mumm, Laura C.; Sullivan, Luke M.
Subject: In re: Facebook, Inc. Consumer Privacy User Profile Litigation, No. 3:18-md-02843-VC-JSC

Confidential Mediation Communication

Counsel:

We have reviewed the ‘non-exhaustive’ list of information Plaintiffs seek regarding the list of apps I circulated on May 5 as part of our mediation of the ADI dispute. There are certain categories of data that Facebook would be willing to discuss providing pursuant to a negotiated protocol in full resolution of the ADI dispute. We note, however, that much of the list seeks information that Facebook does not maintain, that would be extraordinarily burdensome for Facebook to locate for thousands of apps, or that is categorically privileged. For example:

- Facebook does not maintain in any structured form a “description of app[s] provided by [the] developer or annotated by FB.” It seems Plaintiffs are referencing the type of information one would find in an app store, which Facebook does not maintain.
- Facebook cannot plausibly provide data points that would show “[t]he number of FB users who did not download [each] app whose info was accessed.”
- Plaintiffs’ request for “[t]he tier/phase of ADI process [each] app falls under . . . and . . . the reasons for elevation” asks for categorically privileged information and attorney work product regarding the attorney-driven ADI team’s legal analysis.

That said, we are hopeful that we can make progress on this issue and we are preparing a proposed protocol aimed toward resolving the parties’ ADI dispute.

Best,
Martie

Martie Kutscher Clark

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
1881 Page Mill Road, Palo Alto, CA 94304-1211
Tel +1 650.849.5348 • Fax +1 650.849.5048
MKutscherClark@gibsondunn.com • www.gibsondunn.com

This message may contain confidential and privileged information for the sole use of the intended recipient. Any review, disclosure, distribution by others or forwarding without express permission is strictly prohibited. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

Please see our website at <https://www.gibsondunn.com/> for information regarding the firm and/or our privacy policy.
